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 9 Attorney for Claimants  
 10 TOAN HOANG, QUE NGO, and JULIE LUU

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 14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 No. CV-08-0826 MMC

17 v.  
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**ANSWER OF CLAIMANTS TOAN  
 HOANG, QUE NGO, and JULIE LUU  
 TO COMPLAINT FOR FORFEITURE**

29 APPROXIMATELY \$61,386.00 IN UNITED  
 30 STATES CURRENCY,

31 Defendant.

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32 TOAN HOANG, QUE NGO, and JULIE LUU,

33 Claimants.

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Plaintiff has failed to state a claim upon which relief may be granted;

### THIRD AFFIRMATIVE DEFENSE

Claimants are each innocent owners;

#### FOURTH AFFIRMATIVE DEFENSE

The seizure of the claimants' property was in violation of the Fourth Amendment and/or the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution. All the evidence seized and the fruits thereof must be suppressed;

## FIFTH AFFIRMATIVE DEFENSE

Plaintiff unreasonably delayed initiation of this forfeiture suit to claimants' detriment in violation of the Due Process Clause of the Fifth Amendment and Fourteenth Amendments to the United States Constitution;

## SIXTH AFFIRMATIVE DEFENSE

Forfeiture of the property would be in violation of the Excessive Fines Clause of the Eighth Amendment to the United States Constitution;

## SEVENTH AFFIRMATIVE DEFENSE

Plaintiff should be equitably estopped from pursuing this forfeiture;

## EIGHTH AFFIRMATIVE DEFENSE

Even if the allegations in the Complaint are true, not all of the property seized is subject to forfeiture.

## NINTH AFFIRMATIVE DEFENSE

Plaintiff has failed to comply with Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions

## PRAYER FOR RELIEF

WHEREFORE, claimants pray as follows:

1. That plaintiff take nothing by reason of its complaint, and that judgment be rendered for claimants;
2. That claimants be awarded costs of suit;

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3. For such other relief as the Court deems proper.

5. Claimants hereby demand trial by jury.

DATED: Respectfully submitted,

By: /S//Erik Babcock  
ERIK G. BABCOCK  
Attorney for Claimants  
TOAN HOANG, QUE NGO, and JULIE LUU

PROOF OF SERVICE

1       I declare under penalty of perjury that I am a citizen of the United States, over the age of  
2       eighteen years and not a party to the within action. My business address is 1212 Broadway, Suite  
3       726, Oakland, CA 94612. On this date I served the attached ANSWER OF CLAIMANTS  
4       TOAN HOANG, QUE NGO, and JULIE LUU by causing a true copy to be placed in the United  
      States mail, first class postage fully prepaid, addressed to the following person at the address  
      below:

5       SUSAN B. GREY  
6       ASSISTANT U.S. ATTORNEY  
7       450 Golden Gate Ave., 9<sup>th</sup> Floor  
8       San Francisco, CA 94102

9       Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2008 at Oakland, California.

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